



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

MAR 29 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5954 6505**

Supervisor David Sullivan  
1255 West Water Street  
Elmira, New York 14905

Re: **Administrative Order CWA-02-2012-3018**  
**Town of Elmira Municipal Separate Storm Sewer System**  
**SPDES Permit No. NYR20A168**

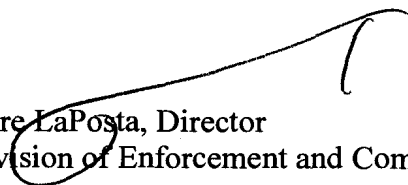
Dear Supervisor Sullivan:

The United States Environmental Protection Agency (EPA), Region 2, has made a finding that the above-named municipality, Town of Elmira ("Elmira" or "Town"), is in violation of the Clean Water Act (33 U.S.C. § 1251 et seq) (CWA or "Act") for New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) violations as described in the findings of this ORDER. Enclosed are two (2) originals of this ORDER, issued pursuant to Sections 309 and 308 of the Act, which detail the findings.

Please acknowledge receipt of this ORDER on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject the municipality to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER shall also subject the municipality to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding this ORDER, please contact Mr. Douglas McKenna, Water Compliance Branch Chief, at (212) 637-4244.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joseph DiMura, NYSDEC  
Dixon Rollins, NYSDEC Region 8  
Matthew Mustico, Town of Elmira  
Jimmie Joe Carl, Chemung County Stormwater Coalition

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

Town of Elmira  
1255 West Water Street  
Elmira, New York 14905

**SPDES Permit No. NYR20A168**

Proceeding pursuant to Sections 308(a) and  
309(a)(3) of the Clean Water Act, 33 U.S.C.  
§§1318(a) and 1319(a)(3)

**ADMINISTRATIVE  
COMPLIANCE ORDER**

CWA-02-2012-3018

The following Findings of Violation are made, and Order for Compliance ("Order") issued, pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§1318(a) and 1319(a)(3). This authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.

**A. Legal Authority**

1. Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a), prohibits the discharge of pollutants from a point source into waters of the United States, except in compliance with, *inter alia*, Section 402 of the CWA 33 U.S.C. §1342.
2. Section 402 of the CWA, 33 U.S.C. §1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that Section.
3. Section 402 of the CWA, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402 of the CWA, 33 U.S.C. §1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA. Additionally, under the authority granted to the NYSDEC by the EPA under Section 402(b) of the CWA, 33 U.S.C. §1342(b), a New York State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.

4. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. §1362(5) to include an individual, corporation, partnership, association or municipality.
5. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. §1362(6) to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
6. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. §1362(14) to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
7. "Navigable waters" is defined by Section 502(7) of the CWA, 33 U.S.C. §1362(7) to include the waters of the United States.
8. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. §1362(12) to include any addition of any pollutant to navigable waters from any point source.
9. "GIS" or "Geographic Information Systems" is defined as a computer system capable of capturing, storing, analyzing, and displaying geographically referenced information; that is, data identified according to location.
10. Section 402(p) of the CWA, 33 U.S.C. §1342(p) sets forth the requirements for the discharge of stormwater, including discharges of stormwater from Municipal Separate Storm Sewer Systems ("MS4s").
11. 40 C.F.R. §122.26(b)(8), defines an MS4 as a "conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by State law)...that discharges into waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works..."
12. 40 C.F.R. §122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
13. 40 C.F.R. §122.26(b)(16)(ii) defines "small municipal separate storm sewer system," in part, as not defined as "large" or "medium" MS4s.
14. Pursuant to 40 C.F.R. §122.32(a)(1), all small MS4s located in an "urbanized area" (as determined by the latest Decennial Census by the Bureau of Census) are regulated small MS4s.
15. 40 C.F.R. §§122.33(a) and (b) require operators of regulated small MS4s to seek authorization to discharge under the applicable NPDES general permit issued by the permitting authority, by submitting a Notice of Intent ("NOI") for coverage under such permit.

16. NYSDEC issued a SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-02-02) on January 8, 2003. The SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems ("Permit") expired on January 8, 2003 and was administratively extended until the Permit was reissued on April 15, 2008 as GP-08-02. The Permit was subsequently renewed on May 1, 2010 and will expire on April 30, 2015.

## **B. Factual Background**

1. The Town of Elmira ("Elmira" or "Town") is a municipal corporation chartered under the laws of the State of New York, and as such, Respondent is a "person," as defined in Section 502(5) of the CWA, 33 U.S.C. §1362(5), and 40 C.F.R. §122.2, and is an "incorporated place" as defined in 40 C.F.R. §122.26(b)(3).
2. Elmira owns/operates the Municipal Separate Storm Sewer, located in the Town of Elmira, Chemung County, New York and is an "owner or operator" within the meaning of 40 C.F.R. §122.2.
3. The MS4 in Elmira is a small MS4 located in a urbanized area within the meaning of 40 C.F.R. §122.26(b)(16)(ii) and 40 C.F.R. §122.32(a)(1).
4. An MS4 is a point source within the meaning of Section 502(14) of the CWA, 33 U.S.C. §1362(14).
5. Elmira's MS4 discharges stormwater, a pollutant within the meaning of Section 502(6) of the CWA, 33 U.S.C. §1362(6), to the Chemung River and Newtown Creek, waters of the United States within the meaning of 502 of the CWA, 33 U.S.C. §1362, and 40 C.F.R. §122.2, and as such, discharges pollutants within the meaning of Section 502(12) of the CWA, 33 U.S.C. §1362(12).
6. The Town submitted a Notice of Intent under the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-02-02) on March 4, 2003. Permit coverage was granted on March 23, 2003 (Permit No. NYR20A168). Upon expiration of GP-02-02 on January 8, 2008, permit coverage was automatically carried over to the reissued NYSDEC SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-08-002), which became effective on May 1, 2008 and expired on April 30, 2010. At that time, permit coverage was automatically carried over to the reissued NYSDEC SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002) which went into effect on May 1, 2010 and will expire on April 30, 2015.
7. EPA, accompanied by its contractor and NYSDEC, conducted a compliance audit of the Town's MS4 on October 19-20, 2011.
8. NYSDEC General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002), effective on May 1, 2010, was the effective permit at the time of the audit.

### C. Findings of Violation

As described in greater detail in the enclosed audit report, during the audit on October 19 – 20, 2011, EPA inspectors observed the following violations of Elmira's SPDES permit (NYR20A168):

1. Part VII.A of the Permit states that for each element of the SWMP (Stormwater Management Program) Plan, "the covered entity [the Town] must identify (i) the agencies and/or offices that would be responsible for implementing the SWMP plan element and (ii) any protocols for coordination among such agencies and/or offices necessary for the implementation of the plan element." During the audit, it was observed that while the SWMP Plan identifies what activities the Stormwater Team will conduct, it does not identify what activities the Town of Elmira will conduct, nor does it contain protocol for coordination among agencies (e.g. Stormwater Team and Town). Therefore, the Town of Elmira failed to identify protocols for coordination among implementing agencies, in violation of Part VII.A of the Permit.
2. Part VII.A.3.b of the Permit requires that the Town "develop (*for newly authorized MS4s*) and maintain a map, at a minimum within the *covered* entity's jurisdiction in the *urbanized area* and *additionally designated area*." In addition, Part VII.A.3.bii states that the preliminary boundaries of the Town's storm sewersheds should have been determined using GIS or other tools. During the audit, the Stormwater Team demonstrated the GIS-based map available for the Town; however, it was observed that the Town had not identified the preliminary boundaries of its storm sewersheds. Therefore, the Town of Elmira failed to map the preliminary boundaries of its storm sewersheds, in violation of Part VII.A.3.b.ii of the Permit.
3. Part VII.A.g of the Permit requires that the Town "develop (*for newly authorized MS4s*) and implement a program to detect and address non-stormwater discharges, including illegal dumping, to the small MS4 in accordance with current assistance and guidance documents from the State and EPA. The program must include: procedures for identifying priority areas of concern (geographic, audiences, or otherwise) for the IDDE program; description of priority areas of concern, available equipment, staff, funding, etc..." During the audit, it was observed that the Town had not identified priority areas of concern in the MS4 for potential illicit connections or illicit discharges, according to the Stormwater Team. In addition, the Town did not have procedures for identifying priority areas or guidelines as they relate to illicit discharges and connections and what actions must be taken for established priority areas. Therefore, the Town of Elmira failed to identify priority areas of concern and identify procedures or actions that must be taken for those priority areas, in violation of Part VII.A.g of the Permit.
4. Part VII.A.g of the Permit requires that the Town "develop (*for newly authorized MS4s*) and implement a program to detect and address non-stormwater discharges, including illegal dumping, to the small MS4 in accordance with current assistance and guidance documents from the State and EPA. The program must include... procedures for identifying and locating illicit discharges (trackdown); procedures for eliminating illicit discharges; and procedures for documenting actions." During the audit, it was observed that the Town did not have written procedures for identifying, locating, or eliminating illicit discharges. Therefore, the Town of Elmira failed to develop a program which includes procedures for identifying, locating and eliminating illicit discharges into the Town's MS4, in violation of Part VII.A.g of the Permit.

5. Part VII.A.4.a.vii of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a construction site stormwater runoff control program that “describes procedures for SWPPP [Stormwater Pollution Prevention Plan] review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local sediment and erosion control requirements.” During the audit, it was observed that the Town had not developed a procedure for SWPPP review. The Town’s Stormwater Team Engineer explained that there has not been any development in the Town since 2008 since the inception of the Stormwater Team; however, the Town of Elmira failed to establish SWPPP review procedures required. Therefore, the Town of Elmira failed to develop a program which includes SWPPP review procedures, in violation of Part VII.a.4.vii of the Permit.
6. Part VII.A.4.a.viii of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a construction site stormwater runoff control program that “describes procedures for receipt and follow up on complaints or other information submitted by the public regarding construction site stormwater runoff.” During the audit, it was observed that the Town had not developed a formal procedure for receiving or following up on complaints or other information submitted by the public regarding construction site stormwater runoff. Therefore, the Town of Elmira failed to develop procedures for construction site stormwater runoff complaint response and/or follow-up, in violation of Part VII.A.4.viii of the Permit.
7. Part VII.A.4.a.ix of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a construction site stormwater runoff control program that “describes procedures for site inspections and enforcement of erosion and sediment control measures including steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water...” During the audit, it was observed that the Town had not developed procedures for site inspections or enforcement of erosion and sediment control measures. Therefore, the Town of Elmira failed to develop procedures for site inspections and enforcement of erosion and sediment control measures, in violation of Part VII.A.4.ix of the Permit.
8. Part VII.A.5.a.v of the Permit requires that the Town develop (*for newly authorized MS4s*), implement and enforce a post-construction stormwater management program that “describes procedures for SWPPP [Stormwater Pollution Prevention Plan] review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local post-construction stormwater requirements.” During the audit, it was observed that the Town had not developed a procedure for SWPPP review for post-construction stormwater requirements. The Town’s Stormwater Team Engineer explained that there has not been any development in the Town since 2008 since the inception of the Stormwater Team; however, the Town of Elmira failed to establish SWPPP review procedures required. Therefore, the Town of Elmira failed to develop a program which includes SWPPP post-construction review procedures, in violation of Part VII.A.5.v of the Permit.
9. Part VII.A.6.a.i of the Permit requires that the Town develop (*for newly authorized MS4s*) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that “addresses municipal operations and facilities that contribute or potentially contribute POCs [pollutants of concern] to the small MS4 system.” During the audit, it was

observed that the Town failed to fully implement appropriate Best Management Practices (BMPs) throughout the MS4 at its municipally owned facilities that contribute or potentially contribute pollutants of concern to the MS4. Therefore, the Town of Elmira failed to fully implement a pollution prevention / good housekeeping program that addresses municipal operations and facilities that contribute or potentially contribute pollutants of concern to the Town's MS4 system, in violation of Part VII.A.6.a.i of the Permit.

10. Part VII.A.6.a.vi of the Permit requires that the Town develop (*for newly authorized MS4s*) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that "includes an employee pollution prevention and good housekeeping training program and ensures [sic] that staff receive and utilize training." During the audit, it was observed that the Town has not developed a structured education and training program that ensures employees receive the training that is needed. Based on materials and documentation provided during the audit, the last formal training provided was conducted during October 2008. Therefore, the Town of Elmira failed to develop an employee pollution prevention and good housekeeping training program, in violation of Part VII.A.6.a.vi of the Permit.
11. Part VII.A.6.a.vii of the Permit requires that the Town develop (*for newly authorized MS4s*) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that "requires third party entities performing contracted services, including but not limited to street sweeping, snow removal, lawn / grounds care, etc., to meet permit requirements as the requirements apply to the activity performed." Furthermore, Part IV.G of the Permit stipulates that "The covered entity [the Town] must, through a signed certification statement, contract or agreement provide adequate assurance that the third parties will comply with permit requirements applicable to the work performed by the third party." During the audit, it was observed that a contractor was utilizing Town property at the East Hill Facility as a staging ground for work being done under the Chemung County Materials Contract. The EPA audit team observed improper pollution prevention practices conducted by the contractor at both the Town's East Hill Facility and at the resurfacing project that took place in an adjacent municipality. The Town's Stormwater Team Education Coordinator indicated that the Chemung County Engineer confirmed that the contract language did not include provisions to ensure that third parties comply with stormwater requirements. Therefore, the Town of Elmira failed to ensure that third party entities are required to meet permit requirements, in violation of Part VII.A.6.a.vii of the Permit.
12. Part X, Definitions, of the Permit, state that the Stormwater Management Program (SWMP) needs to include measureable goals for each of the Best Management Practices. The measureable goals will help the covered entities assess the status and progress of their program. In addition, Part V.C.3.b.iii of the Permit requires that the MS4 annual report include an assessment / evaluation of...the identified measureable goals for each of the Minimum Control Measures. Based on a review of the Town of Elmira's SWMP Plan, the EPA audit team noted that the Town's SWMP Plan does not clearly define established measureable goals for the MS4 program areas. Therefore, the Town of Elmira failed to include established measureable goals for each of the identified Best Management Practices in its SWMP Plan, in violation of Part X of the Permit.

#### **D. Ordered Provisions**

Based on the Findings of Violation set forth above, and pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§1318(a) and 1319(a)(3), Respondent is hereby ORDERED to take the following actions:

1. Immediately upon receipt of the original copies of this Order, a responsible official of the Town of Elmira shall complete and sign the acknowledgment of receipt of one of the originals of the Order and return said original to Chief, Water Compliance Branch, Division of Enforcement and Compliance Assistance, in the enclosed envelope, to the address listed below.
2. The Town of Elmira shall complete the following items in accordance with the schedule listed below:

<u>Item</u>	<u>Completion</u>
i. Immediately update, revise, and submit to EPA, the Town's Stormwater Management Program (SWMP) Plan to identify the agencies and/or offices that would be responsible for implementing the SWMP plan element and any protocols for coordination among such agencies and/or offices necessary for the implementation of the plan element as required by Part VII.A of the Permit.	Within sixty (60) days of the effective date of this Order.
ii. Develop and submit to EPA, procedures for Stormwater Pollution Prevention Plan (SWPPP) review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local sediment and erosion control requirements as required by Part VII.a.4.vii of the Permit.	Within sixty (60) days of the effective date of this Order.
iii. Develop and submit to EPA, procedures for Stormwater Pollution Prevention Plan (SWPPP) review with consideration of potential water quality impacts and review of individual SWPPPs to ensure consistency with State and local post-construction stormwater requirements as required by Part VII.A.5.v of the Permit.	Within sixty (60) days of the effective date of this Order.
iv. Implement appropriate Best Management Practices (BMPs) in accordance with Part VII.A.6.a.i of the Permit: a. DPW West End Facility i. Implement wash water containment BMPs and wash vehicles in accordance with the Town's MCM 6 BMP sheet which states "vehicles should be washed inside an area where the wash water is conveyed to the sanitary sewer or a closed-loop retention system." If this is not feasible, please state	Within sixty (60) days of the effective date of this Order.



<p>what measures will be taken to ensure that vehicle wash water will remain on-site.</p> <ul style="list-style-type: none"> <li>ii. Establish containment BMPs for roadway millings stockpile located on the hillside to the northeast of the facility entrance driveway.</li> <li>iii. Implement wash water containment BMPs at street sweeper washing area located to the northwest of salt storage.</li> </ul> <p>b. DPW East Hill Facility</p> <ul style="list-style-type: none"> <li>i. Implement wash water containment BMPs and wash vehicles in accordance with the Town's MCM 6 BMP sheet which states "vehicles should be washed inside an area where the wash water is conveyed to the sanitary sewer or a closed-loop retention system." If this is not feasible, please state what measures will be taken to ensure that vehicle wash water will remain on-site.</li> <li>ii. Establish containment BMPs for roadway waste storage stockpile located on the southern perimeter of the site, adjacent to the mulch storage area.</li> <li>iii. Prepare and submit a plan for proper disposal of corroding metal goods, drums and electronics in waste storage area southwest of vehicle maintenance shop, adjacent to fueling area. Plan shall be implemented upon EPA approval.</li> </ul> <p>c. Town Hall Facility</p> <ul style="list-style-type: none"> <li>i. Implement wash water containment BMPs and wash vehicles in accordance with the Town's MCM 6 BMP sheet which states "vehicles should be washed inside an area where the wash water is conveyed to the sanitary sewer or a closed-loop retention system." If this is not feasible, please state what measures will be taken to ensure that vehicle wash water will remain on-site.</li> <li>ii. Implement secondary containment inside vehicle maintenance shop for all chemicals and hazardous waste such as automotive fluids.</li> </ul> <p>Submit a written summary of actions taken for each required item to EPA.</p>	<p>Within sixty (60) days of the effective date of this Order.</p>
---	--

v.	Submit an application for SPDES permit coverage for oil-water separator unit which receives floor-drain discharges from vehicle maintenance garage and discharges to down-gradient drainage ditch along the DPW West End Facility driveway.	Within thirty (30) days of the effective date of this Order.
vi.	Submit an application for SPDES permit coverage for oil-water separator unit which receives floor-drain discharges from vehicle maintenance garage which includes discharges from a washing machine that washes soiled work clothes. The oil-water separator discharges to an outlet along a hillside to the southwest of the salt storage building.	Within thirty (30) days of the effective date of this Order.
vii.	Submit a written response to EPA regarding potential non-compliance items identified in Table 1 of the Audit Report; the Town may also include any questions or comments regarding other findings of the report.	Within forty-five (45) days of the effective date of this Order.
viii.	Develop and submit to EPA, a program to detect and address non-stormwater discharges to the Town's MS4 in accordance with Part VII.A.3.g of the Permit. The program must include procedures for identification of priority areas of concern for the illicit discharge detection and elimination program; description of priority areas of concern, available equipment, staff, funding, etc.; procedures for identifying and locating illicit discharges (trackdown); procedures for eliminating illicit discharges; and procedures for documenting actions. Program shall be implemented upon EPA approval.	Within sixty (60) days of the effective date of this Order.
ix.	Develop and submit to EPA, a construction site inspection and enforcement program in accordance with Part VII.A.4.a.ix of the Permit. The program must include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water. Program shall be implemented upon EPA approval.	Within sixty (60) days of the effective date of this Order.
x.	Develop and submit to EPA, an employee pollution prevention and good housekeeping training program that ensures employee training is provided to staff and utilized as required by Part VII.A.6.a.vi of the Permit. Program shall be implemented upon EPA approval.	Within sixty (60) days of the effective date of this Order.
xi.	Establish measureable goals for all Best Management Practices identified in the SWMP Plan, in accordance with Part X, of the Permit.	Within forty-five (45) days of the effective date of this Order.

xii. Immediately map, and submit to EPA, the preliminary boundaries of the storm sewersheds of the Town's urbanized area, and any additionally designated area within the Town's jurisdiction as required by Part VII.A.3.b.ii of the Permit.	Within sixty (60) days of the effective date of this Order.
xiii. Update contracts with third party entities to ensure contracts have conditions stating that the third party entity must meet permit requirements as the requirements apply to the activity performed, in accordance with Part VII.A.6.a.vii of the Permit.	June 1, 2012
xiv. Submit progress reports to EPA outlining all activities undertaken and costs associated with compliance with this Order.	Every three months, starting May 1, 2012

3. Any document submitted by the Town of Elmira as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR §122.22), and shall include the following certification:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations."

4. All submissions required by this Order shall be sent to:

Douglas McKenna, Chief  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, NY 10007

and

Dixon Rollins, Regional Water Engineer  
NYSDEC Region 8 Office  
6274 East Avon-Lima Road  
Avon, NY 14414

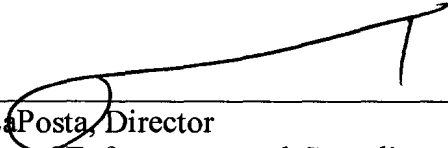
### **E. General Provisions**

1. This Order does not constitute a waiver from compliance with or a modification of the effective terms and conditions of the Act, its implementing regulations, and the NYSDEC SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002), which remain in full force and effect. This Order is an enforcement action taken by EPA to

ensure swift compliance with the Act. Issuance of an Administrative Order shall not be deemed an election by EPA to forgo any civil or criminal actions that would seek penalties, fines or other appropriate relief under the Act.

2. Notice is hereby given that violation of, or failure to comply with, any of the provisions of the foregoing Order may subject the Town of Elmira to: (1) civil penalties up to \$37,500 per day for each violation, pursuant to Section 309(d) of the Act, 33 U.S.C. §1319(d); or (2) civil action in federal court for injunctive relief, pursuant to Section 309(b) of the Act, 33 U.S.C. §1319(b).
3. Nothing in this Order shall limit the EPA's right to obtain access to, and/or inspect Respondent's facility, and/or request additional information from Respondent, pursuant to Section 308 of the CWA, 33 U.S.C. §1318.
4. The EPA may subsequently amend this Order in accordance with the CWA. For example, the EPA may amend this Order to address any non-compliance with the CWA, including but not limited to any non-compliance with the requirements of Section 402 of the CWA. In the event of any such subsequent amendment to this Order, all requirements for performance of this Order not affected by the amendment will remain in full force and effect.
5. If any provision or authority of this Order or the application of this Order to Respondent is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.
6. The terms of this Order shall be effective and enforceable against the Town of Elmira upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

March 29, 2012  
Date

  
\_\_\_\_\_  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

Town of Elmira  
1255 West Water Street  
Elmira, New York 14905

Respondent

Proceeding pursuant to §309(a) of the Clean Water  
Act, 33 U.S.C. §1319(a)

**ADMINISTRATIVE ORDER**

**CWA-02-2012-3018**

**ACKNOWLEDGMENT OF RECEIPT OF  
ADMINISTRATIVE COMPLIANCE ORDER**

I, \_\_\_\_\_, an official with the Town of Elmira with the title of,

\_\_\_\_\_, do hereby acknowledge the receipt of copy of the

ADMINISTRATIVE ORDER, Town of Elmira, CWA-02-2012-3018.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_